

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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JENNIFER JONES,	:	
Plaintiff,	:	
	:	
v.	:	Civil No. 5:23-cv-02648-JMG
	:	
SOLID WASTE SERVICES, INC.,	:	
doing business as	:	
J.P. MASCARO & SONS,	:	
Defendant.	:	

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**ORDER**

**AND NOW**, this 8<sup>th</sup> day of January, 2024, upon consideration of Plaintiff's First Motion to Certify Class (ECF No. 21) and Defendant's Response (ECF No. 22), **IT IS HEREBY ORDERED** that Plaintiff's Motion (ECF No. 21) is **DENIED without prejudice**.<sup>1</sup>

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<sup>1</sup> The Court set a deadline for filing this Motion following the close of Phase 1 discovery with the expectation that Plaintiff would seek class certification aided by supporting evidence beyond their Complaint's allegations. That did not occur. Plaintiff's Motion lacks even a single citation to supporting evidence. "While the class proponent's burden is not heavy, more than mere conjecture or conclusory allegations are required to enable a court to conclude that the class certification requirements are met." *Muscarella v. Commonwealth of Pennsylvania*, 39 A.3d 459, 467 (Pa. Commw. Ct. 2012) (*citing Dunn v. Allegheny Cnty. Prop. Assessment Appeals & Rev.*, 794 A.2d 416, 423 (Pa. Commw. Ct. 2002)).

The primary deficiency in this Motion is that—other than a vague reference to Plaintiff's "personal knowledge" without any citation to an affidavit, deposition, or documentation—it does nothing to advance the claim that this proposed class exists. Without even a scintilla of evidence, Plaintiff cannot meet its burden to certify its proposed class.

The Motion's deficiency is notable considering the eagerness of its filing. Plaintiff filed this Motion more than a month before it was due and with thirty days remaining in discovery. *See ECF No. 16, ¶ 5(d)* (Scheduling Order). The Court denies the Motion without prejudice so that Plaintiff may bolster its request with evidence gleaned from discovery.

**IT IS FURTHER ORDERED** that Plaintiff shall file its motion for conditional certification of the FLSA collective action by **Friday, January 19, 2024.**<sup>2</sup> Failure to do so may result in the dismissal of this Plaintiff's Wage Payment and Collection Law class claims without further order from the Court.

BY THE COURT:

*/s/ John M. Gallagher*  
JOHN M. GALLAGHER  
United States District Court Judge

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<sup>2</sup> Plaintiff's motion for conditional certification is six weeks overdue. *See id.* at ¶ 2. Plaintiff is reminded that the statute of limitations in a collective action is not tolled until conditional certification is granted.